

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Julie Edmonds-Mares
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: November 17, 2014

Approved

Date

11/25/14

COUNCIL DISTRICT: 8

**SUBJECT: PURCHASE AND SALE AGREEMENT WITH THE ARCADIA
DEVELOPMENT CO. TO PURCHASE PARKLAND FOR A PROPOSED
SOFTBALL FACILITY AND ADOPTION OF APPROPRIATION
ORDINANCE AMENDMENTS IN THE PARKS AND RECREATION
BOND PROJECTS FUND**

RECOMMENDATION

- (a) Adopt a resolution authorizing the City Manager or his designee to negotiate and execute a Purchase and Sale Agreement ("PSA") with the Arcadia Development Co., in the amount not-to-exceed \$500,000 for the purchase of approximately 14.54 gross acres of land together with all improvements, bordered by Quimby Road on the north, Capitol Expressway on the east and Chopin Avenue on the west in San José (a portion of Assessor's Parcel Numbers 670-29-020 and 670-29-017) and all other documents necessary to conclude the transaction for the development of a proposed softball facility funded by the Measure P Bond program.
- (b) Adopt the following Appropriation Ordinance amendments in the Parks and Recreation Bond Projects Fund:
 - (1) Decrease the Softball Complex Reserve by \$515,000; and
 - (2) Establish the Arcadia Softball Complex project to the Parks, Recreation and Neighborhood Services Department in the amount of \$515,000.

OUTCOME

Approval of the recommendations in this memorandum will allow the City to acquire approximately 14.54 acres of the total 80.98-acre real property, bordered by Quimby Road on the north, Capitol Expressway on the east and Chopin Avenue on the west in San José from the Arcadia Development Co. (Seller) for the development of a proposed softball facility (hereinafter "Softball Facility"). This action will allow the City to construct the final facility funded under the Measure P bond program. The Softball Facility will accommodate adult and youth softball, as well as youth baseball to serve demand for these activities throughout the City.

EXECUTIVE SUMMARY

The construction of a softball facility is one of the two remaining projects to be completed under the Measure P bond program to fund the construction of parks, trails and community centers. Since Measure P was passed by the voters in 2000, nearly every large vacant parcel in the City has been considered for placement of active recreation sports facilities. The Arcadia site is one of the top-ranked sites.

The total 14.54 acres of land conveyance from Seller for the Arcadia site will allow the City to fully meet the project goals within the available budget and a reasonable timeframe. The City may be asked to pay an amount not to exceed \$500,000 for the total land conveyance. It is nearly unprecedented that 12.5 acres of the 14.54 acres are being provided to the City at no cost. For more than a decade, the City has been looking for an adequately sized parcel to develop this sports complex, and this generous dedication of land is enabling this project to move forward.

BACKGROUND

In November 2000, San José voters approved a \$228,000,000 bond (Measure P) that provided funding for "constructing new recreational sports facilities." To date, the City has completed 93 of the 95 projects funded under this bond measure, including renovations to Happy Hollow Park & Zoo, renovations to 69 neighborhood parks, seven regional parks, nine community centers, and five trail projects that are now open to the public. The projects which remain to be completed are the Coleman Soccer Facility, which has completed the final design phase and will be re-bid in 2015, and the Softball Facility.

On February 4, 2014, the Mayor and City Council accepted a report which provided an update on the Measure P bond-funded softball facility site selection process, and directed staff to proceed with negotiations with the owners of the Arcadia site for the development of a softball facility at that site, with a minimum of three adult-sized lighted softball fields, and return with a recommendation on how to use any remaining Measure P funds.

The Arcadia site is partially within the Height Restriction Area and the Safety Restriction Area of the Reid-Hillview Airport, and subject to restrictions stated on the Comprehensive Land Use

Plan for Reid-Hillview Airport ("CLUP") adopted by the Santa Clara County Airport Land Use Commission. On June 25, 2014, the Santa Clara County Airport Land Use Commission approved the project, with a recommended condition that night lighting be downward shrouded in order to avoid light glare towards aircraft landing and taking off.

ANALYSIS

It is recommended that Council authorize the City Manager to negotiate and execute a Purchase and Sale Agreement ("PSA"), and all other documents necessary to conclude the land transaction with the Arcadia Development Co. (Seller). This action is consistent with the Council action on February 4, 2014. The PSA contains the following key terms and conditions further defined below.

Purchase Price: up to \$500,000

The purchase price includes approximately 14.54 gross acres of land in "as-is" condition. During the softball site selection process, Seller proposed to convey approximately 12.5 acres of land, which is sufficient for construction of three full-sized adult softball fields, to City for the Softball Facility at no cost. Four fields would be more optimal for a tournament venue. Providing a facility that can accommodate tournament play is one of the project objectives.

During discussions leading up to the February 4, 2014 City Council meeting, Seller offered to convey two additional acres of property to the City to accommodate a fourth field, but indicated that City may be asked to pay for this additional acreage. During negotiations, Seller offered to convey the approximately 2 acres of additional land to City for a price not to exceed \$500,000 in addition to their proposed land dedication for the ballfields of 12.5 acres. This would provide City a total of approximately 14.54 acres for future development of the facility with ballfields. At \$500,000, this would equate to a price of \$5.74 per square foot for the 2 additional acres, or 79 cents per square foot for the entire 14.54 acres. City staff considers this cost to be well below market value in either calculation. Furthermore, the additional acreage will result in a site that is suitable to meet the project objectives.

Additionally, Seller will be providing City approximately 2 acres of property adjacent to Meadowfair Park at no cost, as part of their parkland obligations for the development project. This will be included in a separate parkland agreement. Staff will work with the community through a separate process to determine the best use for this additional land adjacent to Meadowfair Park.

Title Insurance:

As a condition to City's obligation to purchase the property, City shall be issued, at no cost to Seller, concurrently with the conveyance of the property to City, a CLTA owner's form policy of title insurance issued by the Title Company, with City named as the insured, in the amount of \$500,000, insuring City's Title to the property is free and clear of any and all conditions,

restrictions, liens, encumbrances, assessments, easements, leases (recorded or unrecorded), taxes and any clouds or defects in title whatsoever, except such specific exceptions as City expressly authorized in PSA. If, following the close of escrow, City has any objection to the condition of title of the property conveyed by Seller to City, City acknowledges that its sole recourse shall be against the Title Company with respect to such dispute. Except as otherwise expressly set forth in the PSA, City's is relying upon the preliminary title report it receives from the Title Company, the title policy to be issued to City at close of escrow and City's own investigation respecting title to the property. City will perform due diligence on the title search prior to closing on the property.

Conditions to Closing:

City and Seller have agreed upon certain key conditions that would need to be met prior to closing on the property. In particular, a key condition will be, prior to close, that Seller shall have received all governmental approvals, entitlements, permits and licenses necessary to develop 250 single-family dwelling units on the retained approximately 66.44-acre land (Retained Property), subject to conditions thereon acceptable to Seller in its sole discretion. The development entitlements are anticipated to occur as a separate item on the December 9, 2014 City Council agenda. However, certain permits related to this will not be acquired by the Seller until spring 2015.

City Obligation to Build Softball Facility on Property:

As part of the PSA, City will be committing to building the Park Bond-funded ballfield facility on this property within four years following the close of escrow. Additionally, staff will work with the developer to ensure that there are appropriate landscaping transitions between the ball field property and the remainder of the development.

Staff anticipates that it will take approximately two years to construct the Softball Facility following completion of the land transaction. To allow for potential schedule delays, the final agreement will incorporate the City's commitment to construct the Softball Facility within a four year time frame.

"AS IS" Purchase/Release of claims:

City is purchasing the Property on an "AS IS" basis, except as expressly set forth in the PSA, City is not relying on any representation or warranties of any kind from Seller or any of its affiliates, or any of their respective agents, employees or brokers as to any matters concerning the Property. City shall use its independent judgment and make its own determination as to the scope and breadth of the due diligence investigation which it shall make relative to the Property.

The Property has been vacant/fallow land since 1981 with a prior use as agricultural land. Phase I and Phase II environmental assessments were performed on the entire development site in 2005 with an additional Phase I assessment performed in 2014. City staff has reviewed the documents and although some detections of pesticides and pesticide based metals were found on the

proposed park location, the concentrations detected are below environmental and health & safety concerns.

The Seller is requesting that upon the close of escrow the City release all claims that are allowed by law that the City may have against the Seller as a result of acquiring the land from the seller. This terminates any claims resulting from the environmental condition of the property.

Since the previous environmental investigations were performed for the current owner and not the City, they do not provide liability protection in the event that unknown contamination is found after the City purchases the property. As a result the City will perform an updated environmental review on the property prior to acquisition.

Site Management and Operations:

The City is currently reviewing proposals for the management, operation and maintenance of the Softball Facility submitted as part of a Request for Proposals. The City intends the Facility to be used in its full capacity to serve the community primarily for recreational and competitive softball and little league baseball tournaments, clinics, leagues, and practices. Whether the facility is operated by an outside operator or by in-house staff, operations responsibilities will include management, marketing, operation, security, parking, labor, equipment, signage and building and grounds maintenance and minor repairs of the Facility including full scheduling of training and tournament, and concession/retail sales. If the City elects to partner with an outside operator, that entity will have an opportunity to informally provide input to the City and the City's design team during the design phase of the facility. Staff will return to the City Council in early 2015 with a recommendation on the operating model for this facility which will include a recommendation on whether natural grass or artificial turf is planned.

This memorandum includes a recommendation to re-allocate \$515,000 from the Softball Complex Reserve to the Softball Complex Land Acquisition project. This action will ensure that adequate funding is available for the acquisition of the Arcadia property (\$500,000) and associated closing costs (\$15,000). All costs associated with the environmental reports are anticipated to be expended from the existing Softball Complex Design appropriation in the Parks and Recreation Bond Projects Fund (\$244,000 allocated in 2014-2015).

EVALUATION AND FOLLOW-UP

If authorized, the City will finalize and execute the Purchase and Sale Agreement in early 2015. Staff will report back to Council to request approval for additional actions needed to develop the Arcadia site, such as recommending an operator for the management, operations and maintenance of the Softball Facility, and awarding the construction contract.

POLICY ALTERNATIVES

Alternative #1: Do not pursue development of the Arcadia site for the Softball Facility

Pros: Staff would continue looking for alternative locations for the facility.

Cons: There are no other viable sites that have been identified for this facility.

Reason for not recommending: The Arcadia site offers the best opportunity for the City to build the most fields (four), and in conjunction with the Coleman Soccer Complex, complete the 2000 Measure P Bond program.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the December 9, 2014, City Council meeting.

COORDINATION

This memorandum has been coordinated with the Department of Public Works, Department of Planning, Building and Code Enforcement, and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

The project is consistent with the Council's approved Budget Strategy for Economic Recovery in that it would spur construction spending in our local economy. The proposed project aligns with the adoption of the Greenprint 2009 Update by City Council, the City's General Plan and the Measure P Bond program.

COST SUMMARY/IMPLICATIONS

The land will be used for the development of the Softball Facility. The final scope and budget for the construction of the facility at the Arcadia site is yet to be determined. The program being evaluated includes four softball/little league baseball fields, night lighting, parking and building(s) to provide concession, storage and restroom facilities with utility service. Aside from the land acquisition cost of \$500,000 and associated closing costs of approximately \$15,000, project costs for full build-out of the program may range from \$15-20 million. An estimate for a facility with four natural turf fields would be \$15,000,000 and a facility with four artificial turf fields would be \$20,000,000. As design work proceeds, cost information can be refined and a final report on costs will be provided to the City Council. All costs associated with the environmental reports are anticipated to be expended from the existing Softball Complex Design appropriation in the Parks and Recreation Bond Projects Fund (\$244,000 allocated in 2014-2015).

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There is approximately \$17.6 million in the Ending Fund Balance in the Parks and Recreation Bond Projects Fund. Of this amount, \$9.5 million is reserved for the Softball Facility, \$7.8 million is allocated to a contingency reserve for the park bond program, and \$0.3 million is allocated in the Unrestricted Ending Fund Balance. It is recommended that any decisions related to the use of the contingency reserve for projects other than the softball and soccer complexes be deferred until both of these facilities are constructed due to uncertainties that may arise during the construction of the sports facilities.

Once the project is further developed, Staff will return to Council with a full analysis of operations and maintenance costs associated with the Softball Facility.

BUDGET REFERENCE

The table below identifies the fund and appropriation proposed to fund the property acquisition recommended as part of this memorandum.

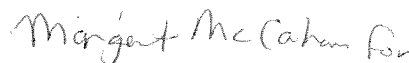
Fund #	Appn. #	Appn. Name	Total Appn.	Rec. Budget Action	2014-2015 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
471	NEW	Arcadia Softball Complex	N/A	\$515,000	N/A	N/A
471	8130	Softball Complex Reserve	\$9,520,000	(\$515,000)	V-647	06/17/2014 Ord. No. 29431
Total			\$9,520,000	\$0		

CEQA

Evergreen East Hills Vision Strategy and Supplemental Environmental Impact Reports, Resolution Number 74742, adopted December 16, 2008, as addended by File Number PP14-088. The addendum is available on the City's website at:
<http://www.sanjoseca.gov/index.aspx?NID=2434>.

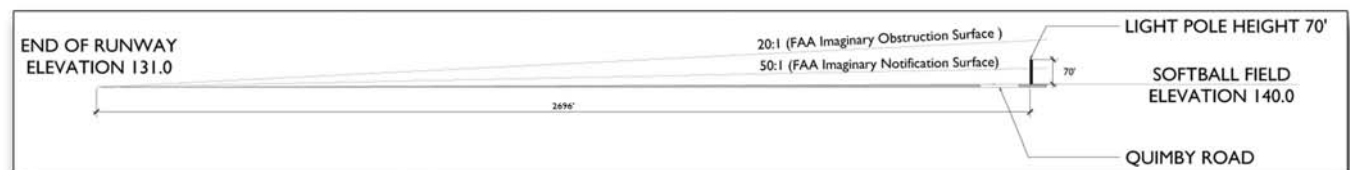
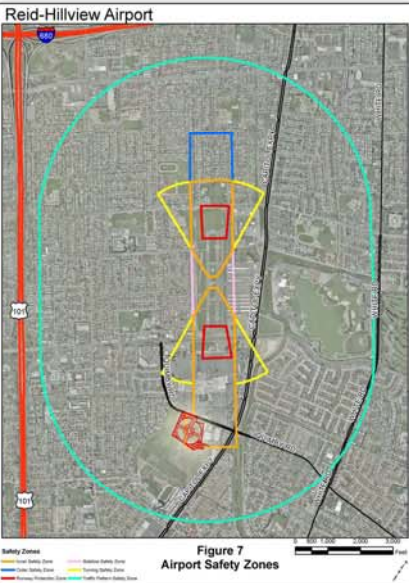
/s/

JULIE EDMONDS-MARES
 Director of Parks, Recreation and
 Neighborhood Services



JENNIFER A. MAGUIRE
 Deputy City Manager / Budget Director

For questions please contact Matt Cano, Deputy Director, at (408) 535-3580.



ARCADIA SOFTBALL COMPLEX